

PLANNED DEVELOPMENT PERMIT

FILE NO. PD12-023

LOCATION OF PROPERTY Southwest corner of Monterey Road and Curtner Avenue (300 Curtner Avenue)

ZONING DISTRICT A(PD) Planned Development established by Ordinance Number 26682

ZONING FILE NUMBER PDC01-03-048

GENERAL PLAN DESIGNATION Public/Quasi-Public

PROPOSED USE Planned Development Permit to allow an approximately 4700 sq. ft. mausoleum use

ENVIRONMENTAL STATUS Re-Use of a Mitigated Negative Declaration

OWNER SCI California Funeral Services, Inc.
c/o David Reynolds, SCI Management L.P.

ADDRESS 1929 Allen Parkway Houston, TX 77019

FINDINGS

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The proposed project has been found to be in conformance with the General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location and mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that:
 - a. The proposed project is architecturally compatible with existing development in the area.
 - b. The proposed project conforms to the *Secretary of the Interiors Standards for the Treatment of Historic Properties*.

4. The environmental impacts of the project including, but not limited to, noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. A Negative Declaration has been adopted for a previous and essentially the same project (File No. PDC 01-03-048) which indicated that certain mitigation measures will be incorporated into the project to prevent the occurrence of any significant adverse effect on the environment.
 - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

CONDITIONS PRECEDENT

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

CONDITIONS CONCURRENT

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Permit Expiration.** This Planned Development Permit shall automatically expire 24 months from and after the date of issuance hereof by said Director, if within such 24-month period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may

approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

4. **Conformance with Plans.** Construction and development shall conform to approved Planned Development plans entitled, "Development Plan, Oak Hill Memorial Park," dated 5/1/2008, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
8. **Construction Impacts.** The developer shall implement the following construction impact mitigation measures for the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions shall be cause for shutdown of the project until compliance can be ensured.
 - a. *Hours.* Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
 - b. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
 - c. *Street Cleaning and Dust Control.* During construction, the developer shall damp sweep the public streets adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
9. **Noise.** All construction equipment, fixed or mobile, shall be in proper operating condition and fitted with standard factory silencing features. Mufflers shall be used on all heavy construction equipment.
10. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
11. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

12. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
13. **Colors and Materials.** All building colors & materials are to be those specified on the approved plan set.
14. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property.
15. **Outside Storage.** No outside storage is permitted.
16. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
17. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
18. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
19. **Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
 - a. Water all active construction areas at least twice daily.
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.

PUBLIC WORKS. (File No. 3-02737)

1. **Transportation:** The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
2. **Grading/Geology:**
 - a. A grading permit is required prior to the issuance of a Public Works Clearance.
 - b. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c. A Geologic Hazard Clearance is required prior to environmental clearance or zoning approval.

- d A geologic report addressing the potential hazards of fault rupture, slope stability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.
 - e The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
3. **Flood: Zone D.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
4. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
5. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Curtner Avenue prior to issuance of a Public Works clearance. Twenty-five percent (25%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
6. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, PD08-017, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Archaeology.* There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.
 - 1) If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
 - 2) If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing

program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)

- 3) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b) A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.
7. **Tree Removals.** Three (3) trees are proposed to be removed as part of the project as shown on plans. Mitigation has been provided in accordance with the rezoning requirements.
8. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation to be retained in this project. Maintenance shall include pruning and watering as necessary and protection from construction damage. All trees to be preserved shall be permanently identified by metal numbered tags prior to the removal of any tree on the site. All trees to be saved shall be protected by fencing of chain link, or other fencing approved by the Director of Planning prior to issuance of the Grading Permit or removal of any tree. The fence shall occur at the dripline in all cases and shall remain during construction. Tree masses to be saved may be protected with a fence surrounding the dripline of the entire mass. All sensitive plant and wildlife habitat areas to be preserved and protected shall be posted prior to issuance of Grading Permit with signs stating that no disturbance, including grading, storage of equipment, vehicles or material, or other disruptions, is allowed. Fencing may be required for areas subject to direct impact, such as trees to be saved or habitat within areas being developed. Fencing and signage shall be maintained by the applicant to prevent disturbances during the length of the construction that might disrupt the habitat or trees.
9. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
10. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.

11. **Fire Flow.** Required fire flow for the site is 2,500 gpm, or as otherwise approved in writing by the Fire Chief.
12. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided as required by the Fire Department.
13. **Hazardous Materials Storage.** This permit does not include any approval of facilities or areas on, within, or under the site to be used for the storage of hazardous, toxic, flammable, or combustible materials, and such facilities or areas are subject to review under a separate Planned Development Permit.
14. **Directory.** A lighted directory showing addresses and locations of all buildings on site shall be provided at the main entrance of the site.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
16. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project.
17. **Use Restriction.** This facility shall not be used as a crematorium.

APPROVED and issued this 16th day of January, 2009.

JOSEPH HORWEDEL, DIRECTOR
Director, Planning, Building and Code Enforcement

Deputy